

Christopher Fedeli

From: Christopher Fedeli
Sent: Thursday, October 03, 2013 6:10 PM
To: Jeff Garn (jefferson.garn@atg.in.gov)
Subject: Discovery in JW and TTV v. King et al.
Attachments: RE: documents / birthdates; RE: your vm about settlement; RE: your vm about settlement

Dear Jeff:

I'm glad we could speak by phone yesterday in an attempt to resolve our outstanding discovery dispute. Per my voicemail earlier today, I still hope that you will agree to promptly produce the documents we requested so we can resolve this dispute without involving the Court. However, after considering the issues you raised and in light of your September 27, 2013 letter and production, we remain unsatisfied with your response thus far. Accordingly, we still plan to file a motion to compel production unless you promptly begin producing the documents we asked for, and you do so on a rolling basis. If you and your clients sincerely intend to comply with our request, it should pose no difficulty for you to send me your first rolling production of IED emails as a .pdf attachment no later than Wednesday, October 9, 2013.

Our concerns are well founded. First, as we discussed yesterday and as you described in your letter, you have produced virtually no emails from officers or employees of the Indiana Election Division to county election officials, which is what we asked for in our July 15, 2013 letter. A review indicates you produced only a small number of emails from IED outside vendors, along with a large volume of word or other office documents. Second, the documents you did produce managed to redact the wrong information, despite our conversations concerning this very subject. You had previously agreed to produce voter names and birth years as required by the NVRA, but not birth days and months (see attached correspondence). And yet, the documents you produced redacted birth *years*, but *not* days and months. I'll reiterate that we believe the NVRA requires you to produce full voter birth dates and years without redaction, and I'm disappointed that my prior willingness to compromise on that issue was not met with cooperation on your end. Third, over the past two months you informed me on at least two occasions that you would produce the documents I had requested (see attached), only to advise me by a letter that I received Tuesday in the mail that you now felt our request was overbroad. You had over two months to consider my request and state any objections or ask for clarification, and yet you did not do so until your letter dated September 27, 2013.

Finally, we disagree with your contention that our request was overbroad or unduly burdensome, or that it is appropriate or necessary for plaintiffs to provide you with the additional clarifying information that you requested from me – for the first time – yesterday by phone. However, in the hope of avoiding the Court's involvement in this disagreement, here is the information you requested:

For my July 15, 2013 request for production, we seek emails from the following IED Co-Directors and staff employees: Trent Deckard, Pamela Potesta, Kristi Robertson, Michelle Brzycki, Leslie Barnes, Cody Kendall, J. Bradley King, Dale Simmons, and Lori Clark.

The time frame for this request is January 1, 2006 through the present (excluding the 90 days prior to the date you produce, as we discussed).

Additionally, here are the search terms I would suggest. Please note the following search term sets use very standard and widely published boolean symbols and connectors, the meaning of which you should be able to determine. However, you will need to make sure these symbols will work as intended on your system. If they don't, these search terms can easily be expanded to approximately two dozen search terms which include all variations of each root word paired with each match variant, and which replace "w/15" with "and."

purg!
vote! w/15 remov!
list! w/15 remov!
roll! w/15 remov!
maint! w/15 list!
maint! w/15 roll!
maint! w/15 remov!
maint! w/15 vote!
dead
died
deceased
move!
moving
relocat!

Our original production request was reasonable under the case management plan, and with this additional information it is now even more so. If you disagree, please let me know promptly.

Sincerely,

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